



MEETING SUMMARY

CALIFORNIA WATER PLAN UPDATE 2013 TRIBAL ADVISORY COMMITTEE MEETING

9:00 A.M. – 4:30 P.M.

**DEPARTMENT OF PUBLIC HEALTH, TRAINING ROOM C
1500 CAPITOL AVENUE SACRAMENTO, CA**

MEETING OBJECTIVES:

1. Review and development of Tribal content for Update 2013:
 - Regional Reports
 - Flood and Land Resource Management Strategies
 - Progress Report
2. Discuss and finalize major themes for 2013 Tribal Water Summit.

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Welcome, Opening Prayer and Introductions

After an opening prayer by Atta Stevenson, introductions were made around the room and on the phone. Stephanie Lucero reviewed the agenda for the day, noting that most of the time would be allocated to discussions and working sessions. Tribal AC members were reminded that the Tribal Water Summit planning team would meet the following day. A quick review of the ground rules was provided, emphasizing that discussion time was intended to hear from Tribal AC members. Other participants are welcome to share their perspectives during the public comment period or as time allows during the meeting.

Regional Reports

Tables were identified for six of the hydrologic regions: Sacramento Valley, North Coast, North Lahontan, South Lahontan, Tulare Lake and San Joaquin River. Tribal AC members worked at the tables for their respective regions. The primary assignment was to complete the print out of the online survey for Tribal content for the Regional Reports. Participants were also asked to look at two Tribal maps and identify necessary corrections.



Kimberly Johnston-Dodds has been working on compiling Tribal information for each of the hydrologic regions, including Tribes located in the area and links to the Integrated Regional Water Management (IRWM) efforts for the respective regions. Sample information sheets were provided for each region.

In filling out the regional surveys, participants were encouraged to include Tribal priorities, accomplishments and lessons learned – this is consistent with information that has been requested from IRWM programs during the Regional Forums. The closing date for submitting Tribal content for the initial draft is July 26th. Any data gaps existing at that time will either be represented with placeholder in the Regional Report outline, or staff will develop text for that section.

There was a question as to whether IRWM content would also be used to help develop content for the Regional Reports. It was clarified that the IRWM Plans will be used to develop regional content and that not all IRWMs have updated their plans. Tribal representatives were encouraged to describe the content that they see as most important for including in the regional reports.

Regional Report Outs

North Coast

This group looked at several issues, starting with dam removal and impacts on the Klamath. Data on the hydrology behind the dams is now becoming available as studies are completed in preparation for dam removal. Dams have impacts on instream temperatures, as well as discharges. There is a question as to whether Tribes want to allow an exemption for the 401 permit, when the dam is removed, or if the permit should be required. Agricultural chemical residue and runoff is an issue in parts of Sonoma County and in the Trinity area. There is a question as to whether there are any statewide requirements or monitoring for agricultural discharges. This is important for water quality. There is no statewide requirement for monitoring groundwater – this is a double-edged sword, since some Tribes may not want to share data on groundwater. Dry Creek Rancheria has “treatment as a state” (TAS) status, and it may be that the Yurok have this status as well. This is a priority, since it is a jurisdictional issue for water quality. Water quality is a big issue for this group, with contamination from gravel mining and instream gold dredging on water quality and fisheries habitat. It was noted that the text for the North Coast Regional Report states that this is the most water abundant region – it should be balanced with a statement that the water is heavily allocated. There is not an abundance of surplus water. Cultural issues and access are also important. There was a discussion about including water stories in the Water Plan, describing the quality of the river, water and habitat. This includes oral histories about meadow locations, and natural approaches to regulating water supply and quality – that have now changed. The Water Plan maps should show Tribal boundaries in the regional maps. There are impacts from tsunami radiation – EPA should establish long-term monitoring and tracking impacts to fish, which are a subsistence resource.

North Lahontan and South Lahontan

Several discussions emerged for this area. One theme was ensuring Tribal access to public resources (national parks and beaches) for practices. Tribal people need to be able to practice traditional ways. Education is needed to make people aware of why it's important for Tribal people to be made whole, to be cleansed and continue on with life. Honey Lake is the main water resource in North Lahontan. It used to contain substantial water and is now a dust bowl. Water has been allocated for uses in the southern part of the lake, with withdrawals from the water table. Additional withdrawals have been allocated. Springs needed for ceremonial purposes are now gone. Issues with safe drinking water and ceremonies are common across Tribes. Water diversions impact sustainable flows. Native species plants are cultural



resources for the Tribes. Both Tribes and local governments need to reach out to each other. There is a lack of water projects. Susanville Rancheria received a grant for a fire truck, they are now seeking a USDA grant to install an additional water tank. The Tribal fire department will be responding to other fire calls in the surrounding community, through an MOU. In terms of challenges, funding availability language needs to include Tribes. Need clean, available water supply. Lack of long-term monitoring is another challenge – monitoring is needed to create baselines of resource information and to track trends. There are streams with high mercury content in the fish. The US Forest Service is conducting a study to determine where the high content mercury is coming from.

Sacramento River

Oscar Serrano summarized that lack of funding for infrastructure and maintenance is a key priority. This includes well pumps, pipelines and septic systems. Water rights are another priority – Yocha Dehe and Colusa have quite a bit of agriculture, so water rights for agricultural activities are important. Tribal trust, quantification and priority issues represent other aspects of water rights. This table had a discussion on information-sharing. Tribes may be reluctant to share information if they are not sure how it will be used. A lengthy discussion occurred regarding meaningful consultation, especially when it comes to IRWM. This includes getting feedback and resolution on items that are discussed. Some IRWM plans had project proposals and priorities established before contacting Tribes. Some large projects in the Sacramento River region that will have significant impacts include the North of Delta Offstream Storage (NODOS) and the raising of Shasta Dam. On the statewide Tribes and region map, it would be good to have the information for the individual regions. Overall, clear lines of communication are needed between agencies and Tribes.

Tulare Lake and San Joaquin River

Donna Begay reported that the three Tribes at this table approached IRWM as a whole. In Tuolumne, it's a formal process involving an MOU to a voting member and bringing funding to the table. In the Kern area, the Tubatulabals are involved in IRWM planning and haven't been asked to contribute funds. They vote and participate at the sub-regional and larger regional meetings. North Fork Mono elected not to be so involved with IRWM. Tribes have unique priorities. For the Tubatulabals, the priority is a basic need for safe drinking water and septic. Water rights will take time and in the meanwhile, basic supplies are needed. For the Tuolumne Me-Wuk, septic and wastewater are a priority – as are water rights. For the North Fork Mono Tribe, most of the water comes from homelands. Hydropower on the rivers have impaired ecologic health of the watershed and rivers themselves. Their priority is to increase instream flows and obtain a better count of mussels and aquatic resources. The North Fork Mono Tribe would like to see some dams removed. They have over 6,000 meadows that need restoration. If restored, they could store as much as a new reservoir on the San Joaquin. All three Tribes brought up the issue of funding. There should also be a statewide assessment of IRWM planning with Tribes – perhaps creating a table with three columns which show the area, which Tribes are actually actively involved, and the content that has been provided with Tribes – or the status (are projects being funded or on the board?). GIS data should be released and available for these maps, so Tribes can create maps for water planning and discussions with Tribal Councils on where they fit in. As a final note, all the funding for the San Joaquin River for restoration, starts at Millerton Dam – after the spill. There is very little funding going into the upper watersheds.

It was mentioned that examples of partnerships can help develop the Tribal toolkit.



Resource Management Strategies

Kamyar Guivetchi, Manager of the Division of Statewide Integrated Management, provided an overview of the Resource Management Strategies. He remarked that the Water Plan is a large document, with over 3,000 pages. The document is broken down into volumes: Volume 1 focuses on statewide policy; Volume 2 and the Regional Reports describe regional conditions and planning efforts; Volume 3 and the Resource Management Strategies comprise the toolkit for integrated water management. Regions will need to look at which mix of RMSs make the most sense for their area. There is a lot of uncertainty in terms of what the future will look like, including factors of climate change and development. The lunch discussions will focus on 2 of the 30 strategies: Land Use and Flood. Some content is specific to the strategy, other content (such as recommendations) will deal more with statewide policy. The question to you is: how can the tool be improved?

In response to a question, Kamyar explained the report on “Californians without Safe Water” will inform several sections of Update 2013. Specifically, recommendations will appear in Volume 1, locally specific details will go into the regional reports, and strategies for improving safe water will be located in the RMSs. The report, in its entirety, will be available in Volume 4 (Reference Guide).

Land Use RMS

Elizabeth Patterson, DWR, provided some background on activities related to developing the Land Use RMS. She is also involved in local government, where she has worked on land use planning programs. In Update 2005, there was a very short section on Land Use with no reference to Tribes. In Update 2009, there was a description of Tribal concerns but no recommendations to address those issues. Update 2013 expands that discussion. The goal for today is to develop basic concepts for tools and recommendations for addressing Tribal issues.

A basic concept that is being promoted is better collaboration, communication and cooperation between Tribes and local governments. DWR is hoping to identify effective tools for educating local land use planners and jurisdictions. Responding to CEQA notices is too late in the process. It is important to have collaboration and cooperation to be involved in early stages of planning.

There was a comment from a Tribal AC member, emphasizing the importance of Tribes being at the table. With FERC relicensing, many times the process unfolds without adequate stakeholder and Tribal input. Reviewing the draft document is too late. Ms. Patterson noted that sometimes there are good reasons why people are not at the table and tools, such as the internet, may help increase participation.

Flood Management RMS

Terri Wegener, Manager, Statewide Flood, recapped that Update 2009 was the first time that the Water Plan included a flood element, with an RMS on Flood Risk Management. This acknowledged the role of flood in integrated water management. The RMS for Update 2013 will address Flood Management. This takes a more holistic perspective – addressing risk and ecosystem components, as well as the beneficial aspects of flooding. The recommendations from Update 2009 that have not yet been acted on will continue to roll forward into the current



document. The RMS also incorporates the work of the Flood Future Report, which is the State's first approach to look at flood even-handedly throughout California. Once the public review draft is available, a presentation on the Flood Future Report will be made to the Tribal AC. Links to the current sections of the document are provided on the handout.

The goal for the day is to help develop and refine recommendations for the Flood Management RMS. Comments from the Tribal AC will be incorporated into the next draft. Ms. Wegener provided a brief overview of the major sections of the Flood RMS:

- **Background:** This includes a graphic illustrating the different types of flood hazards. Similar graphics display the types of resources at risk from flooding (population, crops, infrastructure and environment). The goal of the background is to highlight the risks and benefits associated with flood events.
- **Management Actions:** These represent the types of approaches that can be taken to address flood risks. Nine different categories represent the range of potential actions.
- **Issues:** Seven major challenges to implementing holistic flood management strategies are identified – agency alignment, reliable funding, flood risk awareness, flood readiness, land use planning, risk assessments and regional planning.

Tribal participants were encouraged to review the draft RMS for Flood Management and submit comments back to either Terri Wegener or to cwpc@water.ca.gov.

Working Lunch

During lunch, Tribal AC members broke into table-top discussions regarding the Flood and Land Use RMS. Key discussion points were shared during the following report-outs.

Discussion: Flood Management RMS

Terri Wegener recapped the conversation regarding the Flood RMS. She began by stating that early and ongoing consultation is needed [clarify this] so that type of situation doesn't occur again in the future. The word "consultation" itself is used in several ways, with formal and broader definitions. Using the broader context, meaningful consultation is needed early on with Tribes for flood planning and flood emergency planning, response and recovery. The question that emerges is: How does real communication occur regarding initial and ongoing planning and when the emergency comes? The goal is to use time and resources effectively.

Another issue revolved around funding and incentivizing Tribes for flood planning and implementation. Tribes should be called out for funding for planning and implementation. When there is outreach, the outlying areas need to be involved along with more populated areas. There was a specific recommendation to include Tribes/tribal communities in the background section. There was some discussion about expanding the concept of local agencies to include Tribal entities.

ACTION ITEM: The revised version of the Flood RMS will be posted and additional comments need to be submitted by August 15th.



Discussion: Land Use RMS

Elizabeth Patterson summarized that the goal for this discussion was to revise and finalize the Tribal statement. There was basic affirmation and Tribes were going to take additional time to review it further to provide comments. The Tribal issue statement gets to collaboration, communication and cooperation between Tribes and local governments, which have land use authority. A key challenge is that there are not enforceable land use standards for the State and local government. Six concepts surfaced which will be worked into the recommendations section:

- The Strategic Growth Council focuses on sustainable issues and does not include Tribal representation. Who qualifies for Strategic Growth Council grants? This will be taken back to the Office of Planning and Research.
- Model protocols should be developed to share with local land use jurisdictions on how to work with Tribes.
- Include model language in the RMS in the appendix of the RMS, using Riverside as an example.
- IRWMs should better involve Tribes.
- How can there be better coordination, collaboration and communication with the State?
- Link state and local funding, grants and permits to engaging with Tribes.

A more detailed listing of the comments from the two breakout group discussions is provided as an appendix to this summary, and can be found on pages 16-18 (after “attendance”).

Progress Report

Tribal representatives were provided with two documents: a list of current comments on current activities and next steps to take (overcoming constraints) and a worksheet of additional factors to (status, trend, geographic scope, recommendations for Update 2013 and future performance metrics). Megan Fidell, DWR, Progress Report Lead, reminded meeting participants that the Progress Report is a new element of the Water Plan. This is a stand-alone document to evaluate how well the Water Plan objectives are being implemented. The new effort has yielded a number of insights regarding how the objectives were worded. The Progress Report, to be released in December, will assess the objectives and related actions contained in Chapter 7 of Update 2013.

Thirteen objectives were contained in Update 2013. Objectives relating to groundwater, land use and disadvantaged communities were taken to the respective caucuses in the spring. Those caucuses were reluctant to complete the worksheets and, instead, asked DWR to provide initial responses that the caucus could review. In part, this is due to the nature of the recommendations which were not designed to be evaluated. Many of them are designed to provide a vision. One of the lessons learned is that if you want to report on objectives later, then they need to be written in a way that can be graded.

Using a modified survey, Tribal interests were asked to consider how things were going in terms of the action items for the Tribal objective and provide a rating of the status. There were also questions of how the action items could be made better. These two questions relate to the



categories of “Description of Activities” and “Barriers or Constraints.” Additional and rather broad input is now being sought about the action items, along with suggestions for Update 2013 Objectives and Related Actions and potential performance metrics. It is good to hear if visionary statements are also important.

Participants spent time working on the Progress Report template. Comments will be incorporated into the next version.

After the working session, Stephanie Lucero reviewed the Water Plan webpage which is online at: www.waterplan.water.ca.gov. The link in the left-hand column to Calendar and Materials will take viewers to a calendar, with additional links to meeting materials for each day. The web pages for the regional outreach and topic caucuses were also highlighted.

ACTION ITEM: The Progress Report worksheet will be posted as a Word document. Comments are due by Friday, July 20th. Tribal participants are requested to evaluate the status of each action item and to describe what is working well and what steps are needed to improve the action.

Comment: Actions 4 – 10 and 12 say that California Native American Tribes “should”...

This comes across as offensive. It might be better to say Tribes “may” or “might.” It sounds like Tribes are being told what to do when using “should.”

Tribal Water Summit: Agenda Concepts

Stephanie Lucero provided a reminder that the Tribal Water Summit Planning Team would meet the following day to discuss logistics and invitations. Anyone who is interested can participate on the Summit Planning Team – it is an open process. Major decisions are brought back to the Tribal AC and the Planning Team members have proposed Summit agenda topics that are being presented for discussion, review and approval by the Tribal AC.

In terms of background, Update 2009 hosted the first California Tribal Water Summit. Much of what surfaced at the Summit were recommendations regarding Tribal water concerns and issues. When work started to plan the 2013 Tribal Water Summit, the Planning Team emphasized the need for Federal, Tribal and State leaders to come together and identify solution areas with develop specific deliverables. The Summit is not a conference. Leadership participation is key. The Planning Team is looking at the scope of the Summit, to scope an event that can result in accomplishments over a two-day event. When looking at how to frame major topics of Tribal water interests, the Planning Team identified the following three key themes:

- Tribal Ecological Knowledge
- Watershed Management and Land Use
- Indigenous Rights and Water

There may be sub-topics that are related to this, especially at the local level. The Tribal AC was asked to consider the themes from a larger context. Kamyar Guivetchi noted that pre-work will be needed to support outcomes at the Summit. Ms. Lucero gave some examples of prework:



white papers, developing mission statements, and creating initial implementation frameworks. Once key themes are finalized, design teams will be created to begin work on each topic.

Ron Goode, North Fork Mono Tribe, restated the commitment to a Summit with key deliverables. Deliverables should lead to stand-alone outcomes that result in better understanding of Tribal issues by agencies. There should be deliverables associated with each topic. The topic of water rights can definitely result in deliverables, as well as recommendations for the Water Plan. The theme of Watershed and Management can also produce deliverables. From Mr. Goode's perspective, the topic of Tribal Ecological Knowledge may be the weakest in terms of generating deliverables. It would be helpful to hear discussion about whether it that topic should be rolled out at the Summit. The value of the Summit needs to be driven home to Tribal leaders.

Tribal AC members were requested to consider the major themes. Specifically, do the themes represent major issues for Tribes and Tribal communities in California? Are there other topics that should be added?

Comment: Should the Summit look at draft policies of the State?

Response: There was some consideration of Tribal discussion at the Summit on the **consultation** policy. The thinking was that discussions on the consultation policy should occur prior to the Summit and finalization of the policy.

Comment: It would be helpful if there was one statewide consultation policy, rather than one for each department with its own interpretation.

Comment: State **leadership** at the Summit will draw Tribes.

Response: The Governor will come if the topics are identified and the agenda is.

Comment: Political advisors should also be invited.

Comment: The Summit will include all State agencies and programs associated with water.

Comment: Presidential Tribal Summits involved cabinet secretaries who participate in the breakout sessions. Access to decision-makers is huge.

Comment: The agenda does not include a topic on **funding**.

Comment: At a Tribal meeting, Clinton called upon cabinet secretaries to find funding for Tribes. NRCS, USFS and other funding programs evolved out of this. If set-asides can be identified for Tribes, this will also draw in Tribes.

Comment: This is something that Tribes are concerned about. Funding information will be available. Is there a way to generate a deliverable on funding?

Comment: Research is needed about funding opportunities, including the Strategic Growth Council which has not involved Tribal outreach and input.

Comment: Funding can also be a consideration within each theme. For example, with the theme of watershed management, funding for meadow restoration can be called out.

Comment: Funding aspects must be addressed in some way. This might involve information tables and materials about grant and loan programs.

Comment: There are several aspects relating to funding: The **amount** is informed by particular outcomes that justify the amount. **Access** to funding is a policy issue. Currently, funding and



contracting language creates barriers to Tribal access to funding. That could be addressed as a policy issue in the Summit – how can State programs be developed so that Tribes have more access to funding, technical information and policy decision-making across the Board.

Comment: A funding deliverable might be for political appointees and cabinet members to determine what they do have available for Tribes. This would be helpful for future discussion.

Comment: On one hand, the State is educating Tribes about funding opportunities and mechanisms. On the other hand, Tribal people are educating the State about tribal perspectives and needs relating to water. That makes a lot of sense. Funding is a cross-cutting issue.

Comment: If Tribes want to say they lack access to funds, we can say “here’s our resolution to that.” Tribes can bring different funding sources into a program. This can complement existing funds and bring in matching funds. Tribes can bring resources that a community watershed groups cannot. We need to determine what the costs (of a project or effort) are and say this is how we can arrive at those costs together. It’s one thing to complain and another to work together for resolution.

Discussion: Traditional Ecological Knowledge (TEK)

Comment: This sounds like more like a consultation session – the point of sharing information about traditional uses and knowledge is to inform planning.

Comment: Consultation already is written in. Tribal inputs to agencies and academia is not taken as “scientific.” Tribes are not receiving credit for their knowledge. Tribal input is incorporated in bits and pieces, and isn’t used to inform overall resource management projects.

Comment: Should this be a sub-topic under watershed management and land use?

Comment: CalTrans transportation enhancement projects incorporate the State perspective, archeology and a Tribal perspective (history, gathering areas, lay of the land, cultural importance). This could be an example of a best practice.

Comment: TEK is an essential theme for the conference. In the past, plans have been developed by BIA, DWR or EPA and without Tribal input have failed miserably. In the last recent memory (that last 20 years), only the incorporation of traditional knowledge has started to turn things around. Agencies need an **understanding of Tribal culture** to be able to establish partnerships. Agencies need to understand that Tribes understand our land and water better than they do. Tribes understand timber harvest plans and controlled burns. Agencies need to understand the value of small cultural burns and why they are needed – for environmental health, medicinal plants, forestry and air quality. TEK is the core for the rest of where we walk for the rest of the Summit. Also, TEK can include **measurable goals**: how programs were in the beginning, how it is now, where it’s going – dollar amounts can be tied to that with labor time, support, supplies and materials to generate data.



Comment: TEK need to be the underline for every project and base program base that Tribes go after. Agencies need to understand the importance of that. We cannot separate ourselves from nature. Everything is not scientifically based – if it were, all of the programs that agencies gave us would be working.

Question: What might be a **deliverable** for TEK?

Comment: Our Tribe runs an EPA program. There seems to be a different perspective from the Federal level that is accepting TEK. Perhaps providing those stories, that **education**, and bringing case studies of what we've experienced – that is the deliverable. For example, our Tribe had an NRCS grant to conduct a baseline assessment on 640 acres of Tribal land. We brought our youth and elders out. The Tribe purchased this land for meadow restoration, plant gathering areas, hunting areas – just trying to restore conditions. That's huge. The elders were teaching the youth; there's some documentation, the Tribe is starting additional assessments. There's youth funding. That went a long way. Telling agencies that story is important. Federal agencies are mandated to engage the Tribes.

Comment: CEQA doesn't require that.

Question: How can we demonstrate education as a deliverable?

Comment: Consider a presentation on TEK to start the Summit – have a knowledge person present the Tribal perspective; the history; the differences between State and Federal law, acceptance and respect for that knowledge. Have that be the baseline to set the stage for the Summit. That way, people will be familiar with the acronym, the concept and the content.

Summary: There is a possibility for a deliverable on TEK. Potential deliverables include mission statements and implementation plans – next steps for better integrating TEK. There is a consensus that TEK is a vital part of the Summit – it's a matter of how to manage and organize the topic. It was agreed that this is a concern that should be included in the Summit.

Comment: There is a statement from UNDRIP (United Nations Declaration on the Rights of Indigenous Peoples) that speaks specifically to this. There could be a proclamation from the Governor that addresses the importance of TEK and encourages State agencies to better incorporate this in their programming and planning activities.

Discussion: Watershed Management and Land Use (WM/LU)

Comment: Mapping products are a deliverable from the last Tribal Water Summit.

Summary: TEK and funding relates to this. It was agreed that this is a major important to include in the Summit.

Discussion: Indigenous Rights and Water

It was clarified that the water rights adjudication issue for Tribes will not be solved at the Summit. The “water rights” discussion that can be had in two days, focusing on access and aboriginal rights, will help expand the discussion adjudication that has been held to date. This has been called the “elephant in the room” that no one wants to talk about. The goal is present



the topic in a way that is manageable so that people can start to have a dialog about water rights. The focus of the theme is on access for subsistence, cultural practices and community needs. It is not about quantification and adjudication of legal rights, since every Tribe has a different concern and every Tribe will come at it differently. The dialog needs to be expanded, so that Tribes and agencies can talk about this openly.

Comment: The title is completely appropriate. Avoid saying “water rights” – it is better to say rights to water.

Comment: California Tribes have never relinquished their water rights. Nobody ever sold them, nobody ever bought them. Water that comes out of springs on ancestral rights is still Tribal water. Whether we have a say over that – that’s where it stops. A strong acknowledgement and statement, that the water is still a part of us, would be a good outcome.

Comment: Basic human rights is the focus that was talked about. Even a statement that Tribes have never relinquished their water rights will cause alarm.

Comment: The idea of inherent human rights to water is about individual rights. This is about water coming off Tribal ancestral lands and being diverted to water purveyors. Those diversions don’t talk about where the water comes from – it comes from Tribal lands.

Comment: Indigenous rights include community rights, as a group. It’s the group need for water for cultural practices, the group need for water for the community. The thinking about water sources is closer to adjudication.

ACTION ITEM: Mind map all the aspects that are associated with rights to water. This includes aboriginal rights, human rights, cultural continuation, legal quantification and adjudication. It’s all of those things. Use it as a handout.

Comment: It is important not to alienate those that we are inviting to the Summit. Legal water rights issues in the north are different from those in the South.

Comment: Agencies that are involved in litigation will not be able to attend the Summit if the topic of legal water rights is on the agenda.

Comment: Let’s find a suitable way to see how far we can go with this.

Comment: Many rights to water are not legal “water rights.” For example, fish consumption is directly tied to legal water rights and gathering is not. Cultural practices may not involve legal water rights. Be cautious to keep those issues separate from legal water rights.

Comment: When the Tribes are asked about what they mean when they say “water rights,” it’s different than what the agencies are thinking.

Comment: Agricultural use and Tribal crops are tied to legal water rights.

Summary: It was agreed that this topic will be included in the Summit. It’s a little dangerous and makes it fun.

Next Steps

Design teams will be created for each Summit theme. Incorporate funding into each theme.



ACTION ITEM: Tribal AC members were asked to identify Tribal and agency representatives that should be invited to participate on the Summit design teams (for each theme).

ACTION ITEM: Send out the State agency org chart as a reference document to help think about TWS design team members.

Update on Tribal Communication Plan

The process for updating the Tribal Communication Plan (TCP) is on hold, awaiting the release of the Resources Agency consultation policy. While the TCP is not a consultation plan, since communication is sometime linked to consultation – it is important to know what the consultation policy will discuss. We do not want there to be a conflict between the TCP and the Resource Agency consultation policy.

Comment: It would be helpful to insert an additional paragraph on consultation into the TCP, including the rules associated with consultation. It would not change the TCP, which provides agencies with a toolkit on how to engage Tribes.

Question: Why does each agency have a separate approach to dealing with communication and consultation with Tribes?

Comment: There is probably some thinking with trying to provide a more consistent template for communicating with Tribes. The agencies will have to struggle with this a bit. If the state can develop standards for websites, they can develop a set of standards for engaging Tribes.

Question: Is there interest from the Tribal AC in recommending that the State to adopt a consistent consultation policy?

Comment: There are three levels to consultation approaches: consultation policy, a consultation implementation plan, Tribal expectations on consultation.

Comment: The goal is to ensure meaningful consultation within the different contexts and situations associated with different programs.

Comment: If Tribes are working with different agencies, it could be confusing if there are different consultation approaches. If there are 50 different agencies, there might be 50 different approaches.

Question: How broad a policy is needed?

Comment: The Federal agencies do not have this type of universality. They also have a different relationship with Tribes. This recommendation would be a best practice.

Question: Where would this recommendation go? To the Resources Agency? Their comment period closes on July 15th.

Comment: The recommendation could be sent to the Resources Agency and cc: the Governor and the Tribal advisor.

ACTION ITEM: Stephanie Lucero will send out an email to determine interest by the Tribal AC to support the following statement: “At the July 12, 2012 meeting of the Update 2013 Tribal Advisory Committee, those Tribes listed below submit the recommendation that a universal



consultation policy or policy template be developed for all State of California agencies and departments to address Executive Order B-10-11.” The North Fork Mono Tribe and Tubatulabal Tribe gave their authority to be listed.

Update on Public AC Meeting

Donna Miranda-Begay reported on the June 21st Public Advisory Committee meeting. She and Oscar Serrano are members of the Public AC, representing the Tribal AC. Aaron Dixon also attended the last Public AC meeting, which was appreciated and allows Tribal perspectives to be presented at more tables. The Public AC is comprised of about 60 members that represent a broad range of interests including water districts, recreational users and environmental organizations.

At the June 21st meeting, the morning was dedicated to a presentation and discussion on the Finance Plan. This included a great overview, emphasizing the complexity of water financing in the State. It covered different types of water management activities and the different funding approaches (such as general obligation bonds and special funding).

There was an excellent presentation on water and the California economy, from Ellen Hanak with the Public Policy Institute of California. A specific focus area considered the impact of water on the economy. A good example was the issue of sea-level rise and impacts to companies in the Bay area. There was quite a bit of research and data and Ms. Begay is interested in whether any Tribal data has been collected.

The Public AC meeting included an update of the Update 2013 review process and key dates. Ms. Begay also noted that Jose Alarcon had conducted a meeting on the afternoon of July 11th to discuss Tribal content for the report on “Californians without Safe Water.” It was a great working session. It’s also good to see the template for Tribal content in Update 2013. Tribal representatives were encouraged to submit information on Tribal conditions and issues.

Other Announcements

There is a Tribal water quality conference in Sacramento on July for drinking water and operators.

Next Steps

ACTION ITEM: The online survey link for Tribal content will be resent to the Tribal email lists, with a reminder that the due date is July 26th. Ask Tribes for photos or graphics (or ideas for photos or graphics) to include in Update 2013. Include the name of the photographer and a description or caption for the photograph.

ACTION ITEM: Post PDFs of the initial regional content documents, along with links for 2009 Regional Reports.



ACTION ITEM: Take statewide Tribal-hydrologic regions map and produce individual regional maps.

ACTION ITEM: Post Progress Report worksheet as a Word document. Comments are due by Friday, July 20th.

ACTION ITEM: Mind map all the aspects that are associated with rights to water. This includes aboriginal rights, human rights, cultural continuation, legal quantification and adjudication. It's all of those things.

ACTION ITEM: Tribal AC members were asked to identify Tribal and agency representatives that should be invited to participate on the Summit design teams (for each theme).

ACTION ITEM: Send out the State agency org chart as a reference document to help think about TWS design team members.

Comment: The Federal agencies do not have this type of universality. They also have a different relationship with Tribes. This recommendation would be a best practice.

ACTION ITEM: Stephanie Lucero will send out an email to determine interest by the Tribal AC to support the following statement: "At the July 12, 2012 meeting of the Update 2013 Tribal Advisory Committee, those Tribes listed below submit the recommendation that a universal consultation policy or policy template be developed for all State agencies and departments to address Executive Order B-10-11."

DWR Tribal Liaisons – Contact Information

- Mary Randall, Northern Regional Office, (530) 528-7407, mrandall@water.ca.gov
- Tim Nelson, North-Central Regional Office, (916) 376-1926, tnelson@water.ca.gov
- Abimael Leon, South-Central Regional Office, (559) 230-3315, aleoncar@water.ca.gov
- Jennifer Wong, Southern Regional Office, (818) 500-1645 x262, jenwong@water.ca.gov



Attendance

Tribal Advisory Committee Members and Alternates

Michelle Chi, Cloverdale Rancheria, Sherwood Valley Rancheria
Rob Cozens, Resighini Rancheria
Aaron Dixon, Susanville Rancheria
Morning Star Gali, Pit River Tribe
Ron Goode, North Fork Mono Tribe
Richard Hawkins, No-Rel-Muk Wintu Nation
Tom Keegan, Dry Creek Rancheria
Michael Kitchrull, North Fork Mono Tribe
Michelle LaPena, Dry Creek Rancheria
Donna Miranda-Begay, Inter Tribal Council of California, Tubatulabals of Kern Valley
Oscar Serrano, Colusa Indian Community Council
Stephanie Suess, Tuolumne Band of Me-Wuk Indians

Others

Danielle Dolan, UC Davis
Joette Fleak, North Fork Mono Tribe
Reno Franklin, Yocha-Dehe Wintun Nation
Julie Griffith-Flatter, Sierra Nevada Conservancy
Christina Makhtarzadeh, Bureau of Indian Affairs,
Atta Stevenson, California Indian Water Commission

Emily Alejandrino, DWR Tribal Coordinator Work Team Lead
Joshua Biggs, MWH, Statewide Flood Office support
Xavier Tito Cervantes, DWR, Northern Regional Office
Kamyar Guivetchi, DWR, Manager, Division of Statewide Integrated Water Management
Kimberly Johnston-Dodds, DWR Executive Office, Tribal Liaison
Abimael Leon, DWR South-Central Regional Office Tribal Liaison
Tim Nelson, DWR North-Central Regional Office
Elizabeth Patterson, DWR, Work Team Lead for Land Use
Mary Randall, DWR Northern Regional Office Tribal Liaison
Jason Sidley, DWR, Statewide Flood Office
Terri Wegener, DWR, Manager, Statewide Flood Office
Jennifer Wong, DWR Southern Regional Office Tribal Liaison

Via Webinar

Doug Garcia, Bureau of Indian Affairs
Dave Lynch, Cortina Rancheria Band of Wintu Indians
Kim Mattson, Quartz Valley Indian Reservation
Jennifer Wong, DWR Southern Regional Office

Facilitation Team: Stephanie Lucero, Tribal Facilitator; Judie Talbot, facilitation support; Center for Collaborative Policy, CSU Sacramento



Comments from break-out discussion:

- The concept of land use must be expanded to encompass land uses throughout the watershed. Watershed functions in terms of healthy meadows and burning to reduce fuels will help with retention of precipitation – reducing runoff and attenuating flood flows.
- Trends in land use include siting of alternative energy projects (wind turbines, solar) and landfills. This has implications for local water supplies (used for construction and operation) and landscape or environmental impacts (from the project footprint, including distribution lines for energy projects). Land disturbance can uncover burial sites.
- The RMS is focused on urban areas. Tribes deal with urban sprawl. Urban areas have spheres of influence that affect rural communities, while those in the rural communities cannot vote on the urban issues that will affect them.
- The concept of land use must be expanded to include land uses in rural settings.
- Funding is tied to development. HUD provides funding directly to some counties, which precludes access to Community Development Block Grants in those particular counties. Tribes have an interest in equitable access to federal and state grant programs.
- For land use (and other) projects, federal agency have consultation requirements for working with federally-recognized Tribes. The land use decisions and authorities for cities and counties are tied to jurisdictional boundaries. Local entities are not required to consult with Tribes. As a result, Tribes are responding to planning efforts within the 45-day CEQA process. Coordination is required on General Plans to protect cultural resources. Some Tribes are reluctant to come to a public meeting. Different strategies may be needed to get Tribes to the table.
- How can local government better communicate and collaborate with Tribes?
 - Training was provided for cities and counties, but there is turnover. Unless there is an established program, documented in writing and integrated into local government program, training alone won't work. High levels of staff turnover resulted in three different training sessions.
 - Riverside County has a coalition of Tribes and sends a copy of every project to Tribes. (Madera County tried this approach, but there was a fee involved and it lapsed.) Timely notification and early involvement is essential.
 - Coordination is needed at multiple levels. Energy projects involve Federal, Tribal, State and local entities. Energy infrastructure is outdated. Sometimes an eminent domain taking is warranted. (Hydropower is not green energy or clean energy. Hydro systems on the San Joaquin River are old technology.)
 - Enforceable statewide standards are difficult to set up: getting a CEQA amendment is hard. A previous proposal was vetoed by the Davis Administration.
 - Recommend that the Strategic Growth Council include Tribes and funding for Tribes. Then add in training protocols. That raises the issue to the cabinet level and provides a venue for working with OPR. (The SGC also provides grant funding – from Prop 84 – for planning and urban “greening.”)
 - Funding and permitting process should require early engagement with Tribes. Development timelines are often on a fast track and there is rush or avoidance to working with Tribes.



At the breakout table, Tribal AC members discussed the *Flood Management Resource Management Strategy*. The discussion is summarized here:

- All discussions on “tribal issues” should contain a note on the differences between Federally-recognized tribes, and non-Federally recognized tribes. The federal government has “trust” responsibilities to tribes, the State government does not.
- The Flood RMS should include a serious discussion on “retreat strategies” in areas prone to coastal flooding as a result of Climate Change. The Tribal AC member who put forward the suggestion noted that many local governments are already planning for significant sea level rise.
- The graphic map reference coastal flooding described it as seasonal. A Tribal AC member suggested that the risk was actually year round.
- Recommendation: DWR should *consult** with Tribes*, and tribal communities about cultural resources and impacts to cultural resources before funds are given. (*This language is highly sensitive. The word “consult” has both a legal meaning, and many other interpretations. Also, “tribes, and tribal communities” is the most acceptable way to reference. A discussion at the table explicitly noted that “Tribal Organizations” and “Tribal NGO’s” should not be included.) The key recommendation should be that efforts should be made to invite meaningful input from tribes and tribal communities as early in the planning process as possible.
- Include tribes, and tribal communities in a discussion in the Summary section.
- Floods can be devastating to ecosystems as well. Floods in the Redwood forest can remove valuable soils.
- Not all tribes have access to flood fighting and flood recovery resources. A possible recommendation on state assistance was suggested. An example would be “Flood agencies should consider entering into MOA’s with government planning agencies to prepare for floods and emergency response in tribal communities.” Any discussion on this should also carefully describe the current Federal responsibilities; many tribes have existing FEMA hazard mitigation plans. This recommendation could also have a discussion on mapping jurisdictional boundaries, and establishing clear roles and responsibilities for responding to flood events that affect Tribal Communities.
- Make sure the tribal communities have their own avenues to secure funding for planning.
- Include tribes under the definition of Disadvantaged Communities (DAC), they should be “eligible” for funding. It was made clear however, that not all tribes are DACs.
- Flood Management, Planning, and construction should include consideration of Environmental Justice issues.
- When discussing the north coast, consider low lying sea level communities; it does not take large storm events to cause major damage. Tsunamis can have devastating consequences, even inland. There should be something here in respect to tsunami warnings. This includes life loss, infrastructure damage, and long term contamination of drinking water wells.
- Lake Isabella is one of the most dangerous dams in the country. A community –wide drill/exercise was held to educate the residents on what to do in case of the dam braking. However, tribal communities were not notified, they didn’t find out until they saw the local news. There are cultural resources all around the lake.



- There was a positive response on the item of flash flooding in the report. One Tribal AC member noted that they have them in their area after forest fires, when thunderstorms happen.
- Access to our certain communities can be impacted by flooding. One member said “We have one road in and out of our community. When it floods, we are stranded. Some of the flooding comes from sediments, and authorities don’t want to do dredging under the bridges, so the rivers get diverted. It invades our lands, and disrupts our daily lives. DFG is involved, and the Autobahn society is heavily involved – tribes are not.”
- RMS Recommendations should include references to Tribes and Tribal Communities when discussion other levels of government. (i.e. Federal, State, Local, *Tribes and Tribal Communities...*)
- DWR should assist local agencies as well as tribes and tribal communities in identifying flood risk. There should be consideration that often tribes and tribal communities lack the financial resources to carry out mapping efforts.
- **Flagged:** Re-visit definitions of “Local Agencies” and “Tribal Communities/Tribes.” The group was unsure if Tribes and Tribal Communities fit under the existing CWP definition of “Local Agencies.”

Other comments included:

- I did not see an interface on “Cloud seeding” and the impact that could have on flash floods. We fight those man made enhancements all the time. It could be a risk in some areas.
- Flood control measures, and proposed actions should include environmental justice in their evaluations. NC-22 2009 in the Regional Report has a reference to the Klamath river, and it details how our reservation is in 2/3 of a floodplain, and across the river from where the USACE built levees from other communities. Equitable distribution of flood protection is important. Now the tribal areas on the south side of the Klamath are at higher risk than before. The USACE has the duty to notify every one of impacts; they should have gone to the tribe and given them the opportunity to explain. In fact, they knew that they were protecting one side instead of the other.
- In 2009, the Flood RMS directed readers to go look at Forest Management practices to find associated impacts on flood control. We know that thinning the forest canopy will bring more water down into the watershed at a faster rate. Pages NC-21, 22 of the 2009 Regional Report describes the notable events of tropical storms; rain on snow floods. What I am coming away with is that most of the floods we experience aren’t as a result of forest fires, they are heavy precipitation. *Thinning the canopy, to mitigate fire risks, creates a greater risk for floods. We have conflicting goals to balance here.*

Conclusion

Terri Wegener concluded the table discussion by noting that a draft of the Flood Management RMS would be available for review on July 15. Further drafts would be available later on the CWP process.